



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,032	03/01/2002	Peter Zatloukal	41051.P017	6498

25943 7590 07/27/2006

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

EXAMINER

RAMPURIA, SHARAD K

ART UNIT PAPER NUMBER

2617

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

JUL 27 2006

Technology Center 2600

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/087032
Filing Date: March 01, 2002
Appellant(s): Zatloukal et al.

Robert C. Peck (Reg. No. 56,826)
For Appellant

EXAMINER'S ANSWER

Art Unit: 2617

This is in response to the appeal brief filed 06/19/2006 appealing from the Office action mailed 02/10/2006.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1-19 stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

Art Unit: 2617

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

US 20030022703	Reshefsky	01-30-2003
US 20010050993	DOUGLAS	12-13-2001
US 6594366	Adams	07-15-2003
US 2003/0104842	Choi et al.	06-05-2003

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-13, & 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reshefsky (US 2003/0022703) in view of Douglas (US 20010050993).

Regarding claims 12-13, Reshefsky disclose a wireless mobile phone (144;fig. 1) headset comprises a first earpiece receiver (28 or 30; fig. 1), a microphone (14; fig. 1), and

Reshefsky fails to disclose a connector having two plugs respectively coupled to said first earpiece receiver and said microphone, to facilitate (a) removable attachment of the wireless mobile phone headset to a wireless mobile phone via two corresponding complementary interfaces of the wireless mobile phone, an input-output interface and an output interface, where telephony and non-telephony audio signals are outputted on both interfaces, and (b) transfer of telephony and non-telephony audio signals from said wireless mobile phone to said first earpiece receiver via the output interface and the plug mating with the output interface, and transfer of audio inputs from said microphone to said wireless mobile phone via the input-output interface and the plug mating with the input-output interface. However, Douglas teaches in an analogous art, that a connector (22; Fig.3, dual jack; Pg.4; 0040-0041) having two plugs (14-15; Fig.3, miniplugs; Pg.4; 0040-0041) respectively coupled to said first earpiece receiver and said microphone, to facilitate (a) removable attachment of the wireless mobile phone headset to a wireless mobile phone via two corresponding complementary interfaces of the wireless mobile phone, an input-output interface and an output interface, where telephony and non-telephony audio signals are outputted on both interfaces, and (b) transfer of telephony and non-telephony audio signals from said wireless mobile phone to said first earpiece receiver via the output interface and the plug mating with the output interface, and transfer of audio inputs from said

Art Unit: 2617

microphone to said wireless mobile phone via the input-output interface and the plug mating with the input-output interface. (Pg.4; 0040-0041 & Pg.5; 0048) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Reshefsky including a connector having two plugs respectively coupled to said first earpiece receiver and said microphone, to facilitate (a) removable attachment of the wireless mobile phone headset to a wireless mobile phone via two corresponding complementary interfaces of the wireless mobile phone, an input-output interface and an output interface, where telephony and non-telephony audio signals are outputted on both interfaces, and (b) transfer of telephony and non-telephony audio signals from said wireless mobile phone to said first earpiece receiver via the output interface and the plug mating with the output interface, and transfer of audio inputs from said microphone to said wireless mobile phone via the input-output interface and the plug mating with the input-output interface in order to provide a headset with dual stereo jacks for an electronic device.

Regarding claim 19, Reshefsky disclose the wireless mobile phone headset of claim 12, wherein said microphone further comprises a send/end button. (60; fig. 1, pg.2; 0024)

Claims 14 & 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reshefsky in view of Douglas as applied to claims above and further in view of Adams (US 6594366).

Art Unit: 2617

Regarding claim 14, the above combinations disclose all the particulars of the claim except a first of said two plugs is a 1/8-inch audio plug. However, Adams teaches in an analogous art, that the wireless mobile phone headset of claim 12, wherein a first of said two plugs is a 1/8-inch audio plug. (one or more types of . . . plug; Co1.3; 37-45) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a first of said two plugs is a 1/8-inch audio plug in order to provide different electrical signals and pin configurations.

Regarding claim 16, the above combinations disclose all the particulars of the claim except a first of said two plugs is a 2.5 mm audio plug. However, Adams teaches in an analogous art, that the wireless mobile phone headset of claim 12, wherein a first of said two plugs is a 2.5 mm audio plug. (one or more types of . . . plug; Co1.3; 37-45)

Claims 15, & 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reshefsky in view of Douglas as applied to claims above and further in view of Choi et al. (US 2003/0104842).

Regarding claim 15, the above combinations disclose all the particulars of the claim except a first of said two plugs is a 3-pin plug. However, Choi teaches in an analogous art, that the wireless mobile phone headset of claim 12, wherein a first of said two plugs is a 3-pin plug. (two or four port plug; pg.4; 048)

Art Unit: 2617

Regarding claim 17, the above combinations disclose all the particulars of the claim except a first of said two plugs is a 4-pin plug. However, Choi teaches in an analogous art, that the wireless mobile phone headset of claim 12, wherein a first of said two plugs is a 4-pin plug. (two or four port plug; pg.4; 048)

Regarding claim 18, the above combinations disclose all the particulars of the claim except 4-pin plug comprises two input pins, and neither of said input pins are coupled to said first earpiece receiver. However, Choi teaches in an analogous art, that The wireless mobile phone headset of claim 17, wherein said 4-pin plug comprises two input pins, and neither of said input pins are coupled to said first earpiece receiver. (two or four port plug; pg.4; 048)

(11) *Response to Argument*

Applicant's arguments filed on 6/19/2006 have been fully considered but they are not persuasive.

I. In response to appellant's argument (On page 4, fifth paragraph of Appeal Brief) that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in

Art Unit: 2617

the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper **hindsight** reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In this case, Douglas teaches an object of the present invention is to provide a novel active noise reduction headset having a single interface with dual plugs that contain the outputs from the microphone means and audio output means for adaption into an electronic means or computer sound means incorporating the active noise circuitry for reducing noise which overcomes the problems associated with the prior art (See Abstract, Pg.4; 0041-0043 and Claim 1) by assigning of dual jacks for headphone, which is in the same field of endeavor as Reshefsky. Therefore, one skill in the art would recognize the combination of the above two references is proper.

In response to appellant's argument (On page 6, first paragraph of Appeal Brief) that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., claim 12 inherently requires that one plug be coupled only to the receiver, and the other plug be coupled only to the microphone) are not recited in the rejected

Art Unit: 2617

claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In addition rejoinder to appellant's argument (On page 6, first paragraph of Appeal Brief) that Reshefsky and Douglas doesn't teach, "Reshefsky and Douglas simply do not disclose two plugs respectively coupled to the receiver and microphone (by reciting "respectively," claim 12 *inherently* requires that one plug be coupled only to the receiver, and the other plug be coupled only to the microphone). Also, Reshefsky and Douglas simply do not suggest that only one of the plugs transfers the available audio output signals, reserving the other plug for audio input" and it is noted that Douglas supports the assertion as, "The connector 22' has two stereo miniplugs or jacks 14', 15', respectively, shown in FIG. 4. The first jack 14' contains the signals or contacts from the left ground 14A, the left microphone 14B, and the left audio 14C transmitted by cable wiring 35' from the left earcup 3', which are inputted into the sound module 30'. Likewise, the second jack 15' contains the signals or contacts from the right ground 15A, the right microphone 15B, and the right audio 15C transmitted by cable wiring 35' from the right earcup 4. The signals on the tip of the dual jacks 14', 15', respectively are transmitted to the module 30' when the jacks are plugged into its appropriate female members 12, 13 and either undergo noise reduction or standard electrical-acoustic processing to output sound to the ears of the user depending on the switch means 25' mode". (See Pg.4; 0041) that can easily interpret on the claimed limitations. Hence, it is believed that Douglas *still teaches the claimed limitations*.

For that reason, it is believed and as enlighten above, the rejections should be sustained.

II. The combining of Reshefsky and Douglas further with Adams recited operation of the present invention, as explained above in claim 12 (please see preceding response to arguments).

Therefore, one skill in the art would recognize the combination of the above references is proper.

The above arguments also recites for the claims 14 and 16, consequently the response is the same explanation as set forth above with regard to claim 12.

Consequently, the incorporation of Reshefsky and Douglas further with Adams still teaches the precincts of claim.

With the intention of that explanation, it is believed and as enlighten above, the refutation are sustained.

III. In response to appellant's argument (On page 7, last paragraph of Appeal Brief) that Choi doesn't teach, "wherein said 4-pin plug comprises two input pins, and neither of said input pins are coupled to said first earpiece receiver." and it is noted that Choi supports the assertion as, "two or more port plugs for audio inputs". (See two or four port plug; pg.4; 048) that can easily interprets on the claimed limitations. Hence, it is believed that Choi *still teaches the claimed limitations*.

Consequently, the incorporation of Reshefsky and Douglas further with Choi still teaches the precincts of claim.

With the intention of that explanation, it is believed and as enlighten above, the refutation are sustained.

Art Unit: 2617

Conclusion

For the above reasons, the Examiner respectfully submits that a prima facie case of obviousness of the claimed invention has been set forth in the Final Office action and appellant(s) has/have failed to overcome the prima/facie case of obviousness. Accordingly, it is believed that the Final rejection under 35 U.S.C. 103 is proper and the Board of Patent Appeals and Interferences is therefore respectfully urged to sustain the Examiner's rejection.

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,



Sharad Rampuria


20 July 2006

Conferees,



GEORGE ENG
SUPERVISORY PATENT EXAMINER

George Eng



WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
William Trost